

**Security Council**

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**Letter dated 14 October 2015 from the Secretary-General  
addressed to the President of the Security Council**

I have the honour to write to you regarding the financing of the Residual Special Court for Sierra Leone.

The Oversight Committee of the Residual Special Court has informed me that the Court will run out of funding in March 2016 and that it will not be possible to secure the voluntary contributions necessary to enable the Court to continue its work thereafter. As you are aware, article 3 of the agreement establishing the Court provides that “[t]he expenses of the Residual Special Court shall be borne by voluntary contributions from the international community. The Parties and the Oversight Committee may explore alternative means of financing the Residual Special Court.” The parties and the Oversight Committee have decided to explore alternative means of financing the Court.

In July 2010, I notified the Security Council of my intention to seek to negotiate and conclude with the Government of Sierra Leone an agreement establishing a residual mechanism for the Special Court for Sierra Leone and the statute of the residual mechanism. The members of the Security Council took note of that intention and agreed to my proposed manner of proceeding. I therefore concluded with the Government of Sierra Leone an agreement establishing the Residual Special Court, which entered into force on 2 October 2012. I remain grateful that the Security Council welcomed the agreement, expressed its intention to support the Residual Special Court and called on Member States to contribute generously to the implementation of the agreement.

The Residual Special Court commenced functioning on 1 January 2014, immediately upon the closure of the Special Court for Sierra Leone. In so doing, the Residual Special Court is the first example of a full transition from a United Nations or United Nations-assisted criminal tribunal into a residual institution. The functions of the Residual Special Court include supervising the enforcement of sentences of the persons convicted by the Special Court, protecting and supporting witnesses, reviewing judgments and sentences, responding to requests for access to evidence by national prosecuting authorities, managing the archives, conducting contempt of court proceedings and providing defence counsel and legal aid for any proceedings before the Residual Special Court.

The Residual Special Court is a small and efficient entity, with a limited number of staff. The current and estimated future annual budget for the continuous activities of the Court amounts to \$3.5 million. In the experience of the Court to



date, this figure includes the costs of ad hoc judicial activities that may arise from time to time. It is possible that such judicial activities may generate additional costs in the future, depending on their nature and complexity.

When establishing the Special Court, the Security Council decided that it should be funded from voluntary contributions. The funding basis was continued for the Residual Special Court as the successor institution. Since the commencement of the operations of the Residual Special Court, intensive efforts have been deployed to secure sufficient voluntary funding. These have encompassed sustained appeals for funding by the President of the Residual Special Court, Philip Waki (Kenya); the Prosecutor, Brenda Hollis (United States of America); and the Registrar, Binta Mansaray (Sierra Leone). The Oversight Committee and the Member States comprising it have supported these activities and engaged in their own fundraising efforts, while I issued, on 5 May 2015, a general appeal to the membership of the Organization calling for additional contributions to the important work of the Residual Special Court. Despite these efforts, there will not be sufficient voluntary contributions for the continuation of the work of the Residual Special Court beyond March 2016.

In my letter to the President of the Security Council dated 8 November 2012 ([S/2012/891](#)), I noted that, when the agreement establishing the Residual Special Court had been concluded, it was thought that it would be possible to secure voluntary contributions for the operations of the Residual Special Court. I recalled at that time, however, that the experience of the Special Court had led to the conclusion that, given the long-term nature of residual mechanisms in particular, it would not be prudent to leave the funding of the Residual Special Court to the uncertainties of voluntary contributions. In addition, I did not consider that it would be practical to engage in continuous appeals for funding for that purpose. In order to find a viable and sustainable financial mechanism to ensure secure and continuous funding for the Residual Special Court, I therefore expressed my intention to submit a proposal to the General Assembly for alternative means of financing the Residual Special Court. By letter from the President of the Security Council dated 28 November 2012 ([S/2012/892](#)), I was advised that, at that time, there was no agreement among members of the Security Council with respect to the possible need for such alternate means.

In my view, the experience since the previous consideration of the matter by the Security Council has further confirmed the need for alternate means of funding the Residual Special Court. International criminal tribunals engaged in trial and appeal processes provide specific reference points for actual or potential donors. By contrast, the work of a residual institution that is not seized of a trial or appeal has less visibility, thereby rendering the ability to attract voluntary funding significantly more difficult, as the Residual Special Court has experienced. At the same time, I believe that the Residual Special Court has duly confirmed its worth by successfully completing a full transition from the Special Court and effectively discharging a diverse range of judicial and non-judicial functions with very limited financial and human resources. In doing so, it is continuing the contribution towards peace and security in Sierra Leone and the region initiated by the Special Court, and is helping to strengthen and deepen the rule of law.

In the light of the foregoing, I intend to propose to the General Assembly that the costs of the Residual Special Court for the coming biennium should be provided through a subvention under the assessed programme budget.

The proposal would be a temporary measure to address the current financial situation. I will consult closely with the Government of Sierra Leone, the Oversight Committee of the Residual Special Court and associated stakeholders during the biennium in order to seek to propose more comprehensive solutions to the Security Council and the General Assembly.

I should be grateful if you would bring the present letter to the attention of the members of the Security Council.

*(Signed)* **BAN** Ki-moon

  

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